IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 24023 of 2004

Between:

1 B. Siddappa, S/o. Veeranna,
R/o. D.No. 11/65-B, Krishnanagar, Kurnool Town & District.
2 B. Venkateshwara Prabhu, S/o. Siddappa,
R/o. D.No. 11/65-B, Krishnanagar, Kurnool Town & District.

... PETITIONERS

AND

The Commissioner, Kurnool Municipality, Kurnool Town & District.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent herein in the interfering with the construction work of 3rd Floor of Siddeshwara Apartments in an extent of 910 Sq. yards, in Sy.No. 482, 750/1A1 and 566/2 in Kallur (V), under the limits of Kurnool Municipality.

Counsel for the Petitioners: MR.T.BHEEMSEN

Counsel for the Respondent: MR.S.I.NEWTON

The Court, at the admission stage, made the following:

ORDER:

This writ petition is filed to declare the action of the respondent in interfering with the construction work of 3rd floor of Siddeshwara Apartments in an extent of 910 Sq. yards in Sy.No.482, 750/1A1 and 566/2 in Kallur Village, under the limits of Kurnool Municipality, as illegal and arbitrary and to direct the respondent not to interfere with the construction being made.

2. Heard the learned counsel for the petitioners and the learned Standing Counsel appearing on behalf of the respondent and both the counsel agreed for disposing the writ petition at the admission stage.

3. Petitioners claim to be the absolute owners of land in an extent of 910 Sq. yards in Sy.No.482/2, 750/1A1 and 566/2 in Kallur Village, under the limits of Kurnool Municipality. It is the case of the petitioners that they constructed an apartment under the name and style of Siddeshwara Apartments over the said land, after taking permission, for constructing four floors, from the erstwhile Kallur Gram Panchayat, which granted permission vide proceedings: BA. No.863/02 dated 06-02-2002. It is further stated that while petitioners were proceeding with the construction in accordance with the permission, the occupiers of the existing flats, filed O.S.No.1160 of 2002 on the file of the II Additional Junior Civil Judge, Kurnool, against the petitioners, for permanent injunction, restraining them from making construction of flats and also filed I.A.No.1394/02 seeking temporary injunction against the petitioners, which was allowed by the trial Court, granting injunction by order dated 03-12-2002, restraining the petitioners from proceeding with the construction, against which petitioners filed C.M.A.No.31/2002 before the IV additional District Judge, Kurnool, which was dismissed by the lower appellate Court, by order dated 05-04-2004, against which the petitioners said to have preferred C.R.P.No.30000 of 2004 before this Court. This Court allowed the said C.R.P., duly setting aside the orders passed by the lower Courts.

4. It is further stated that after disposal of the C.R.P., when the petitioners were

proceeding with the construction, the respondent – officials warned the workers to stop construction stating that there was no approval from the respondent, for making construction and threatened the petitioners that they would demolish the construction. It is the case of the petitioners that even before proceeding with the construction work, they made an application dated 21-11-2004 to the respondent requesting him to allow them to proceed with the construction, which was acknowledged by the respondent office on 23-11-2004 and the same is pending on the file of the respondent. It is alleged that the respondent is neither rejecting the representation, nor granting permission to the petitioners.

5. Inasmuch as the representation of the petitioners dated
23-11-2004, is pending before the respondent – Commissioner, I deem it appropriate to dispose of the writ petition with the following direction.

6. The respondent – Commissioner is hereby directed to consider the said representation of the petitioners and pass appropriate orders thereafter, expeditiously, in accordance with law.

The writ petition is accordingly disposed of at the admission stage.

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N. V. RAMANA, J

December 23, 2004

MRR / TVK

ASSISTANT REGISTRAR

// TRUE COPY

SECTION OFFICER

To:

1. The Commissioner, Kurnool Municipality, Kurnool Town &

District.

2. Two C.D. Copies.